

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal Action No.
	)	10-00333-01-CR-W-ODS
RODNEY FOSTER,	)	
	)	
Defendant.	)	

**MEMORANDUM OF MATTERS DISCUSSED AND  
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on June 27, 2012. Defendant Rodney Foster appeared in person and with appointed counsel John Picerno. The United States of America appeared by Assistant United States Attorney John Cowles.

***I. BACKGROUND***

On December 7, 2010, an indictment was returned charging defendant with conspiracy to commit identity theft and wire fraud, in violation of 18 U.S.C. § 371. A superseding indictment was returned on January 4, 2011, charging the same offense.

The following matters were discussed and action taken during the pretrial conference:

***II. TRIAL COUNSEL***

Mr. Cowles announced that he will be the trial counsel for the government. The case agent to be seated at counsel table is Jeff Shawn, FBI, and Terri Welna, Paralegal.

Mr. Picerno announced that he will be the trial counsel for defendant Rodney Foster. He will be assisted by Bill Kenney.

**III. OUTSTANDING MOTIONS**

There are no pending motions in this case.

**IV. TRIAL WITNESSES**

Mr. Cowles announced that the government intends to call 12 witnesses without stipulations or 6 witnesses with stipulations during the trial.

Mr. Picerno announced that defendant Rodney Foster intends to call 4 witnesses during the trial. The defendant may testify.

**V. TRIAL EXHIBITS**

Mr. Cowles announced that the government will offer approximately 12 exhibits in evidence during the trial.

Mr. Picerno announced that defendant Rodney Foster will offer approximately 3 exhibits in evidence during the trial.

**VI. DEFENSES**

Mr. Picerno announced that defendant Rodney Foster will rely on the defense of general denial.

**VII. POSSIBLE DISPOSITION**

Mr. Picerno stated this case is definitely for trial.

**VIII. STIPULATIONS**

Stipulations are not necessary here.

**IX. TRIAL TIME**

Counsel were in agreement that this case will take 2 days to try.

**X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS**

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed June 13, 2012, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by June 27, 2012;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Tuesday, July 3, 2012;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions<sup>1</sup> by or before noon, Tuesday, July 3, 2012. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

**XI. UNUSUAL QUESTIONS OF LAW**

Motions in limine on the following issues will probably be filed: 609(b) motion.

There are no unusual questions of law.

**XII. TRIAL SETTING**

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on July 9, 2012.

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<sup>1</sup>Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the forthcoming trial letter, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn\_shawver@mow.uscourts.gov and rhonda\_enss@mow.uscourts.gov by Friday, July 6, 2012. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. **The instructions shall be listed in the order they are to be given.**

The parties request the second week of the docket.

/s/ Robert E. Larsen

ROBERT E. LARSEN  
U. S. Magistrate Judge

Kansas City, Missouri  
June 27, 2012

cc: Mr. Kevin Lyon